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ATTORNEY FOR DEFENDANT TAIWAN AUSTIN

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	1:01-CR-00291-1
vs.	:	
	:	(Caldwall, J.)
TAIWAN AUSTIN,	:	
Defendant	:	<i>[Electronically Filed]</i>

**MOTION TO REDUCE SENTENCE
UNDER 18 U.S.C. §3582(c)**

AND NOW, comes TAIWAN AUSTIN, by his attorney, ENID W. HARRIS, and Moves this Court pursuant to 18 U.S.C. §3582(c) for an order reducing the term of imprisonment from 198 months to 140 months. In support thereof, it is averred as follows:

1. On September 5, 2002, an Indictment was filed naming Defendant, Taiwan Austin, and his brother, Lamont. Count 1 charged that from on or about December 1997, up to and including September 5, 2001, Taiwan Austin distributed and possessed with intent to distribute 50 grams or more of cocaine base, and did aid and abet same, in violation of 21 U.S.C. §841(a)(1) and 18 U.S.C. §2. Lamont Austin was identically charged in Count 2. In Count 3, the Defendants were charged with conspiracy to distribute 50 grams or more of cocaine base during the same dates.

2. On September 11, 2002, Superseding Informations were filed, each charging the Defendants with a single count of distribution and possession with intent to distribute cocaine base, aiding and abetting, from on or about December 1997, up to and including September 5, 2001.

3. Plea Agreements announced by the parties provided for a maximum penalty of twenty (20) years and the dismissal of the Indictments at the time of sentencing.

4. On May 29, 2003, the Defendant was sentenced to a term of imprisonment of 240 months. The District Court determined a total Offense Level of 34 and a Criminal History Category of VI.

5. Taiwan Austin's case was remanded for resentencing in accordance with United States v. Booker, 125 S.Ct. 735 (2005).

6. On June 28, 2005, Taiwan Austin was resentenced by the District Court to a term of imprisonment of 198 months. The District Court determined a total Offense Level of 30 and a Criminal History Category of VI, based on the District Court's determination that an enhancement of two levels for use or attempted use of a person less than 18 years of age under §3B1.4 did not apply. The District Court also determined that Taiwan Austin should receive an additional two-level reduction for acceptance of responsibility under §3E1.1.

7. Taiwan Austin was not sentenced as a career offender at resentencing on June 28, 2005.

8. Taiwan Austin is serving his sentence at FCI-Allenwood Medium, White Deer, Pennsylvania, 17881. His Prisoner Identification Number is 11235-067.

9. Taiwan Austin's projected release date is November 14, 2016.

10. In the United States Sentencing Guidelines Manual effective November 1, 2007, the United States Sentencing Commission amended the drug quantity table and reduced the Offense Level for an offense involving 50 to 150 grams of crack cocaine (the amount determined by the District Court at the sentencing of May 29, 2003) is Level 28.

11. On December 12, 2007, the United States Sentencing Commission announced its decision to apply the amendments to the crack guidelines retroactively effective March 3, 2008.

12. Pursuant to 18 U.S.C. §3582(c)(2), "in the case of a defendant who has been sentenced to a sentencing range that has subsequently been lowered by the Sentencing Commission ... upon motion of the defendant ... the Court may reduce the term of imprisonment, after considering the factors set forth in §3553(a) to the extent that they are applicable ..."

13. Under the retroactive application of the amendment to the Sentencing Guidelines, Taiwan Austin's base Offense Level is 28.

14. An Offense Level of 28 and a Criminal History Category of VI gives a now advisory guideline range of 140 to 175 months.

15. Because Taiwan Austin was sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission, he moves this Honorable Court to reduce the term of imprisonment in accordance with 18 U.S.C. §3582(c)(2) to 140 months.

WHEREFORE, it is respectfully requested that this Honorable Court grant the foregoing Motion for Relief under 18 U.S.C. §3582(c).

DATE: 3-07-08

Respectfully submitted

S/Enid W. Harris

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Counsel for Taiwan Austin

I, Taiwan Austin, have reviewed the above Motion for Reduction of Sentence and concur in this Request.

Taiwan Austin
TAIWAN AUSTIN

WAIVER OF APPEARANCE IN COURT

I, Taiwan Austin, have reviewed the Motion for Relief under 18 U.S.C. §3582(c)(2) and agree to waive my right to personally appear in Court in the Middle District of Pennsylvania, and agree that the Court may proceed by way of a Court Order without my presence. If the Court requires to have a video conference preceding, I would have no objection. I do not know whether my current facility has video conferencing capability.

DATE: 3-07-08

Taiwan Austin
TAIWAN AUSTIN

CERTIFICATE OF SERVICE

I, Enid W. Harris, do hereby certify that on this date I electronically served, via e-mail, a copy of Taiwan Austin's Motion for Relief Under 18 U.S.C. §3582(c) to the following:

William A. Behe
Assistant U.S. Attorney
(william.behe@usdoj.gov)

Douglas Durnin,
Supervising U.S. Probation Officer

William S. Gottlieb
U.S. Probation Officer

and by placing the same in the United States Mail, first class in Kingston, Pennsylvania, addressed to the following:

Taiwan Austin
11235-067
FCI-Allenwood Medium
Federal Correctional Institution
P.O. Box 2000
White Deer, PA 17881

DATE: 3/11/2008

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